

D3MJPARS

Sentence

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

V.

09 Cr. 581 WHP

DAVID K. PARSE, et al.,

Defendants.

March 22, 2013
2:30 p.m.

Before:

HON. WILLIAM H. PAULEY III,

District Judge

APPEARANCES

PREET BHARARA,

United States Attorney for the
Southern District of New York

STANLEY J. OKULA, JR.,

JASON HERNANDEZ,

Assistant United States Attorneys

- and -

NANETTE DAVIS, Esq.

U.S. Department of Justice - Tax Division

ZUCKERMAN SPAEDER, LLP

Attorneys for defendant Parse

BY: PAUL L. SCHECHTMAN, Esq.

,
of counsel

Also Present:

CHRISTINE MAZZELLA,
Special Agent IRS

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1 (In open court)

2 (Case called)

3 THE COURT: Good afternoon. Please be seated. I note
4 Mr. Parse's presence at counsel table.

5 This matter is on for sentencing. Are the parties
6 ready to proceed?

7 MS. DAVIS: We are, your Honor.

8 MR. SHECHTMAN: We are, your Honor.

9 THE COURT: Mr. Shechtman, have you reviewed with your
10 client the presentence investigation report?

11 MR. SHECHTMAN: I have, sir.

12 THE COURT: Are there any factual matters in the
13 report that you believe warrant modification or correction?

14 MR. SHECHTMAN: No. The factual matters I think have
15 all been corrected. The other matters your Honor is aware of
16 from correspondence.

17 THE COURT: I am, yes. Ms. Davis, are there any
18 factual matters in the presentence report that the government
19 believes warrant modification or correction?

20 MS. DAVIS: No, your Honor.

21 THE COURT: All right. Let me begin by saying I have
22 reviewed all the parties' submissions including Mr. Shechtman's
23 submission this morning concerning two arguments that he simply
24 is preserving for appeal. With that said, Mr. Shechtman, do
25 you wish to be heard?

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1 MR. SHECHTMAN: I do, Judge.

2 Judge, I do not know your Honor well, but I note two
3 things to be true, two things that I believe are relevant to
4 sentencing today.

5 THE COURT: Mr. Shechtman, for my benefit as well as
6 everyone else's, would you use the microphone.

7 MR. SHECHTMAN: I thought I was. I apologize.

8 THE COURT: That is all right.

9 MR. SHECHTMAN: First, I know your Honor holds lawyers
10 to high standards, understandably so. With a law degree comes
11 a commitment to practice ethically and above all, to respect
12 the law.

13 What makes this case so disheartening is that high
14 powered tax lawyers abandon their obligation to the law. Their
15 conduct, in my view, is plain to me and the courts as well was
16 indefensible. I can only hope and ask in sentencing David
17 Parse, you do not put him in their category. He was not a tax
18 lawyer. He did not design these shelters. He did not market
19 them. His judgment may not have been perfect, but that can be
20 said of his superiors at Deutsche Bank who approved the bank's
21 participation in these shelters and it can be said of many
22 other brokers who effected similar trades but have been spared
23 Mr. Parse's fate.

24 At sentencing, a judge compares the conduct of one man
25 or one woman against that of another, one crime against

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1 another, one life against another. Putting David Parse in the
2 same category with Paul Daugerdas or Donna Guerin, I
3 respectfully submit, is the wrong comparison.

4 The second thing I know is that your Honor has read
5 every word of my sentencing submission and the letters attached
6 to it and you have already thought long and hard about
7 Mr. Parse's sentence. That is a good reason for me to keep my
8 remarks short.

9 In my submission I tried to show that David Parse was
10 a good man, a man who cares deeply about his family, his
11 friends, his community. I hope I have persuaded you that
12 Mr. Parse is a fundamentally decent man, and more importantly,
13 I hope I have persuaded you that he is at the periphery in
14 terms of culpability of this criminal scheme.

15 I hope I have persuaded you of that because I believe
16 it. Permit me two more observations. The first involves
17 acquitted conduct. Your Honor will decide today how to read
18 the jury's verdict. The parties have gone back and forth on
19 that. You know my view. I would only add this:

20 When I started practicing in this Court, we tried 15
21 percent of criminal cases. Today that number is closer to 3
22 percent. Trials matter. Acquittals matter. If a defendant
23 who is acquitted of the overarching tax conspiracy like
24 Mr. Parse was treated as if he was convicted of it,
25 incentives to try cases will be dulled further.

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1 In her submission, Ms. Davis told the jury this about
2 Mr. Parse, and I quote:

3 "The back-dating alone is enough for you to conclude
4 that a crime was committed. Whether or not the shelters had
5 economic substance, under the law it is illegal to falsify the
6 dates of a transaction to gain a tax advantage, which is what
7 was done here."

8 Judge, whether that was done here is not today's
9 quarrel, but I believe the jury listened to those words. I
10 believe it convicted Mr. Parse on the basis of those three
11 transactions and I ask the court to sentence him accordingly.

12 The second observation is this: I recognize that
13 those who commit white collar crimes must be punished. Their
14 crimes harm society as much as violent ones, but
15 proportionality and parsimony are the cornerstones of a just
16 sentence and a just society. What is being asked for today, I
17 submit, fails those tests.

18 As your Honor knows, each day a person is
19 incarcerated, he suffers real deprivations, his children grow
20 up, his loved ones drift away, his employment opportunities
21 fade. Even a short separation from family and loved ones is
22 real punishment. Judge, David Parse does not deserve the type
23 of sentence that is being called for here. I submit it would
24 be unjust. Thank your Honor.

25 THE COURT: Thank you, Mr. Shechtman.

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1 Ms. Davis.

2 MS. DAVIS: Good afternoon, your Honor.

3 Mr. Shechtman said that trials matter and acquittals
4 matter, but here convictions matter, too. That is why we are
5 here for sentencing. What Mr. Parse was convicted of was a
6 broad ranging tax fraud that can be called the largest tax
7 fraud in history, and I want to emphasize, your Honor,
8 Mr. Parse was not a peripheral player in this.

9 For without the investments that he and his cohort
10 Brubaker implemented at Deutsche Bank, these tax fraud shelters
11 would not and could not have happened. I don't think it is too
12 much to say the investments are the fulcrum of this tax fraud.
13 It was the key to any argument to be had by the tax lawyers.

14 There is no question that Mr. Parse's participation in
15 this conduct was voluntary, it was willful, it was unlawful and
16 it was knowing, and it is for these reasons we ask for a
17 significant term of prison time.

18 I certainly don't quarrel with Mr. Shechtman in terms
19 of his statement about the damage that prison time inflicts on
20 the loved ones and the career prospects of a convicted
21 defendant. However, that is true for every convicted defendant
22 that comes through these doors.

23 With regard to the nature of the crime, I will say
24 this. The scope of this tax fraud, your Honor, was truly
25 staggering. Certainly from the Internal Revenue Service's

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1 perspective and Department of Justice's perspective, it
2 required absolutely unbelievable amounts of time and resources
3 to prosecute not just this case, but to also handle all the
4 civil cases that are coming and are still out there being
5 litigated in many district courts, in tax court, Court of
6 Federal Claims and will continue no doubt to be litigated for
7 years to come.

8 We urge very strongly your Honor to impose a
9 significant term of imprisonment for a very basic reason. Just
10 that with a white collar criminal so often the calculus is can
11 I get away with it? And if I can't, what is going to happen to
12 me?

13 If the answer is only you will have to pay some sort
14 of sum of money in terms of penalty or restitution, we submit
15 that that sends the wrong message, and that is not a message
16 that is going to deter a white collar criminal like David
17 Parse.

18 It is especially acute in a tax case like this where
19 the very discovery of the crime was extremely difficult, in
20 that the product, if you will, was designed with layers of
21 complex entities, transfers, financial products that make it
22 extremely difficult to find out what is happening even if you
23 know the scope of the transaction itself which wasn't
24 self-evident at the beginning of this process, your Honor, for
25 the Internal Revenue Service.

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I can certainly answer any questions you might have with regard to the specific arguments Mr. Shechtman raised with regard to his objections to the presentence report, but we submit that a significant term of imprisonment for Mr. Parse's flagrant, enduring and criminal conduct for success of the criminal venture is warranted in this case.

Thank you.

THE COURT: I do have a couple of questions for both of you regarding forfeiture in particular.

Can the government explain to me the difference in forfeiture amount that it sought and obtained from Ms. Guerin in the amount of \$1.6 million and that which the government requests here from Mr. Parse of 146 million?

MS. DAVIS: Your Honor, the forfeiture component with Ms. Guerin was a negotiated point that was, frankly, an important point for them in order to come to the table, and we negotiated it down, to be honest. We're in a different posture with Mr. Parse.

THE COURT: So I should impose a \$146 million forfeiture on Mr. Parse when the government agreed that 1.6 million was sufficient from Ms. Guerin?

MS. DAVIS: One moment.

(Off-the-record discussion)

MS. DAVIS: One of our considerations, your Honor, in reaching that agreement with Ms. Guerin was it was money in

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1 hand that she produced at sentencing, as you know, that it
2 relieves us of responsibility both of litigating the forfeiture
3 issue and going after assets.

4 That is not the case here. Under the law, we believe
5 we can ask for the full amount of forfeiture.

6 THE COURT: How did the government arrive at the \$146
7 million figure?

8 MS. DAVIS: That's the proceeds, the fees proceeds, if
9 you will, your Honor, that went into the pockets of the
10 defendants as we have articulated in our sentencing papers.

11 THE COURT: Specifically how much does the government
12 contend that Mr. Parse personally benefited from this scheme?

13 MS. DAVIS: \$3 million, your Honor.

14 THE COURT: You've reviewed the presentence report,
15 right?

16 MS. DAVIS: Yes, of course, your Honor.

17 THE COURT: Did the government make any inquiry as to
18 how Mrs. Parse, who is a stay-at-home mother, could have \$3.6
19 million in her personal securities account?

20 MS. DAVIS: I am sorry. When you say did we make any
21 inquire as to how that could be?

22 THE COURT: Yes. When you were investigating this
23 case, you've looked at the assets report by the Parses in the
24 presentence report, right?

25 MS. DAVIS: Yes.

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1 THE COURT: You were present at the sentencing hearing
2 that I conducted a couple of weeks ago regarding Ms. Guerin,
3 right?

4 MS. DAVIS: Yes, your Honor.

5 THE COURT: It shouldn't come as a surprise to you
6 that I would be interested to know what the result of the
7 government's inquiry was during its investigation as to where
8 that substantial wealth that Mrs. Parse has came from, would
9 it?

10 MR. OKULA: I am sorry, your Honor.

11 (Off-the-record discussion)

12 MS. DAVIS: We did not do specific tracing of the
13 funds that went into her securities account, but given that she
14 is a stay-at-home mother and wife and the fact that he was
15 earning substantial amounts from both his Deutsche Bank days
16 but also his subsequent brokerage days, it is reasonable to
17 infer the funds that went into the securities account derived
18 from his work activities.

19 THE COURT: With all your investigative resources, you
20 didn't attempt to ascertain whether those funds were part of
21 the \$3 million in illicit gains that the government says
22 Mr. Parse obtained?

23 MS. DAVIS: We did not. We were not able to ascertain
24 that, your Honor.

25 THE COURT: All right. Thank you.

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1 MS. DAVIS: Thank you.

2 THE COURT: Mr. Shechtman, I have a couple of
3 questions for you on this issue as well.

4 MR. SHECHTMAN: Yes, your Honor.

5 THE COURT: Can you offer the court any explanation as
6 to why the bulk of Mr. Parse's assets are in Mrs. Parse's name?

7 MR. SHECHTMAN: I can offer the following, your Honor:

8 What I know is that they were moved there well prior
9 to indictment. I am not sure that -- I know the court may not
10 look upon the following sentence in the way that Mr. Parse did
11 at the time. They were moved there with discussion with his
12 then counsel, who said the movement was appropriate. They were
13 obviously fully disclosed to Probation, and so that's the short
14 answer to the question.

15 There is no doubt, your Honor, that those were monies
16 that were derived from Mr. Parse's, largely derived from
17 Mr. Parse's work at Deutsche Bank. His wife has worked at
18 least I think through 2000, 2001, had significant
19 responsibilities, but for much of the period after that she was
20 a home-maker and had, as you know, illnesses that prevented her
21 from working full time. I hope that is a fair answer to the
22 question.

23 THE COURT: Have all of Mr. Parse's legal fees in
24 connection with this matter been paid by Deutsche Bank?

25 MR. SHECHTMAN: Yes, your Honor.

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1 THE COURT: Can you approximate for me the magnitude
2 of the fees that Deutsche Bank has paid on Mr. Parse's behalf?

3 MR. SHECHTMAN: I can tell you what mine are. Again I
4 can't begin to guess what the Brune firms are. They are far in
5 excess of mine. Mine are in the neighborhood of \$300,000. My
6 firm says I don't bill enough.

7 THE COURT: Is Deutsche Bank, do you know whether
8 Deutsche Bank has a continuing obligation to pay Mr. Parse's
9 legal fees after sentencing?

10 MR. SHECHTMAN: I think the answer, your Honor, I
11 don't know whether they have a continuing legal obligation.
12 They have told me they're committed to doing so.

13 THE COURT: All right. Thank you.

14 MR. SHECHTMAN: Judge, with some temerity, may I say
15 one thing, which is I could be wrong?

16 I think at the end, end of the day, your central
17 question is what did the jury convict of, and I didn't mean in
18 my remarks to suggest that Mr. Parse wasn't critical to all of
19 this in the sense you can't get to the bottom line here unless
20 you have a digital option trade or a short or whatever it may
21 be.

22 What Ms. Davis said was without the trades that he and
23 Mr. Brubaker affected, this tax conspiracy could not have
24 occurred. That one cannot deny. We do know Mr. Brubaker was
25 acquitted, and I think Mr. Parse was acquitted of knowing that

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1 these tax schemes had no economic substance and that his
2 conviction here was just, just the three transactions. I have
3 said it in my papers, but I wanted to make sure I said it one
4 more time.

5 THE COURT: Before you sit down, has there been any
6 material change in Mr. Parse's financial condition since the
7 presentence report reports his condition as of last August?

8 MR. SHECHTMAN: Judge, he has lived off of savings,
9 but lived modestly. So there is no significant increase in
10 assets, and the reduction, you can take his living expenses and
11 multiply by X. I think the short answer is not really.

12 THE COURT: Thank you.

13 Mr. Shechtman, at this time does your client wish to
14 address the court?

15 MR. SHECHTMAN: Yes, your Honor.

16 THE COURT: Very well.

17 THE DEFENDANT: Judge Pauley, I have tried to live my
18 life personally and professionally in a proper manner. I was
19 raised to value hard work and to respect others. My wife and I
20 have tried to raise our children with those same values. Those
21 are the values I tried to teach other children as well.

22 I never dreamed that I would be standing here today
23 before a federal judge facing sentencing for felony
24 convictions. I regret not seeing things for what they truly
25 were. I know that whatever my sentence, you have given it

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1 great thought, and I thank you for that.

2 THE COURT: The defendant, David Parse, comes before
3 this Court following his conviction after a jury trial in this
4 district of two crimes, the corrupt endeavor to obstruct and
5 impede the administration of the Internal Revenue laws and the
6 crime of mail fraud. Both are serious offenses against the
7 United States.

8 Turning first to the guidelines calculations, the
9 parties dispute the guideline calculation concerning the
10 corrupt endeavor to obstruct the Internal Revenue laws as
11 charged in Count 20 and mail fraud as charged in Count 25.

12 In his letter to Probation, Parse contends that, "A
13 fair reading of the jury's verdict is that he was convicted
14 only for his role in the three instances of fraudulent
15 backdating," and he advances the same argument in his
16 submissions to this Court.

17 Parse's argument rests on Juror No. 1, Katherine
18 Conrad's letter to the government. There Conrad stated that,
19 "She solely held out for two days on the conspiracy charge for
20 Parse, and when she couldn't sway the jury to her position that
21 the 'backdating' was enough for the other charges."

22 But Conrad is a monstrous liar. Her blatant perjury
23 on every matter of substance makes everything she says under
24 oath or in a letter utterly meaningless. That Parse would seek
25 to credit anything she might have to say is just too thin a

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reed. Conrad simply cannot be relied on for anything of importance let alone a window into the jury's collective mind.

While her letter evidences a bias toward the government, it did not pierce the veil of secrecy that surrounds jury deliberations, and this Court declines the invitation to view Conrad's letter as some indication of the mindset of all the other jurors who faithfully served.

As charged, Count 20 holds Parse responsible for the corrupt endeavor to obstruct and impede the administration of the Internal Revenue laws from 1994 through October of 2005, and Count 25 holds Parse responsible for the mail fraud scheme during the same time period.

Section 1B1.3 of the guidelines requires this Court, in calculating the base offense level, to account for Parse's criminal acts, all foreseeable, reasonably foreseeable acts of others in furtherance of the jointly undertaken criminal activity and all of the harms that resulted from those acts.

Parse's involvement in the corrupt endeavor was not limited to the backdating of three transactions. He helped execute the complicated options structured in the SOS, Homer and swaps fraudulent tax shelter transactions and he brought clients to Jenkens & Gilchrist. His meeting in Toledo, Ohio with Dean Kasperzak, Daugerdas and others is emblematic of his involvement in the corrupt scheme.

The testimony at trial regarding that meeting

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1 establishes that Parse knew that Kasperzak was seeking to avoid
2 taxes, that Daugerdas was selling him a fraudulent tax shelter,
3 that Kasperzak would lie about it if the government ever
4 challenged it and that Parse would execute the transactions.
5 Parse was also aware of the scope of the fraudulent tax shelter
6 scheme.

7 Accordingly, this Court calculates his base offense
8 level consistent with the harm that resulted from his acts and
9 the reasonably foreseeable acts of others in furtherance of the
10 scheme. Thus, I find that Probation properly calculated the
11 tax loss amount as \$1,630,166,343.00, and this Court adopts
12 that calculation and assigns a base offense level of 36.

13 Turning to sophisticated means, building on his
14 earlier argument, Parse asserts that the backdating did not
15 involve sophisticated means, but as this Court observed,
16 backdating was just one of Parse's many criminal acts. Parse
17 also helped to execute the SOS, Homer and swaps tax shelter
18 transactions, the sales and investments within the shelters and
19 steered clients to Jenkens & Gilchrist.

20 This Court observed during Guerin's sentencing that
21 the scheme involved the creation of LLC's and other entities
22 to, "hide the ball." The scheme was complex and sophisticated.
23 Section 2T1.1 (b)(2) provides for a two-level increase if the
24 offense involved sophisticated means. This enhancement applies
25 to the offense, not the characteristics of an individual

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1 defendant. See United States versus Lewis, 93 F.3d 1075, 1084
2 (2d Cir. 1996). The rule in Lewis is broad and covers Parse's
3 conduct. Accordingly, the enhancement for sophisticated means
4 applies.

5 Turning to special skills, Section 3B1.3 of the
6 guidelines provides for a two-level increase if the defendant
7 used a special skill in a manner that significantly facilitated
8 the commission or concealment of the offense. Parse, a CPA and
9 stockbroker, used his training, education and experience to
10 help design the option transactions, explained them at length
11 with multiple customers, and used his skills to backdate three
12 transactions. That his assistant executed them is
13 inconsequential.

14 His skills were used in designing the options in the
15 first place, and the enhancement for special skills applies.
16 Thus, the total offense level is 40. This is Mr. Parse's first
17 criminal conviction, and so his criminal history category is a
18 I. That yields a guideline range of 292 to 365 months, but the
19 maximum statutory term for these crimes is a total of 276
20 months.

21 Now, this Court adopts the findings of fact in the
22 presentence report as my own, and I will cause the report to be
23 docketed and filed under seal as part of the record in this
24 case.

25 Turning to the restitution issue, the mandatory Victim

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1 Restitution Act of 1996 requires the imposition of restitution
2 equal to the amount of actual loss suffered by the victim, here
3 the Internal Revenue Service. See United States versus
4 Carboni, 204 F.3d 39, 47 (2d Cir. 2000). The amount of loss is
5 calculated as of the date of sentencing and includes
6 prejudgment interest. See United States versus Quirashi, 634
7 F.3d 699, 703-704 (2d Cir. 2011).

8 Pursuant to 26 U.S.C. Sections 6621 and 6622, the
9 interest is compounded daily at a quarterly-determined rate
10 equal to the federal short term rate plus 3 percent. The
11 parties agree that the restitution calculation submitted by the
12 government is mathematically correct. This Court adopts those
13 math calculations as its own; and, accordingly, the total
14 amount of restitution, including prejudgment interest, is
15 \$231,660,534.00.

16 In addition, this Court may, "make each defendant
17 liable for payment of the full amount of restitution or may
18 apportion liability among the defendants to reflect the level
19 of contribution to the victim's loss and economic circumstances
20 of each defendant." That is 3664 (h).

21 Parse played a central and long-standing role in the
22 criminal scheme, but his contribution to the tax loss is not
23 the same as Guerin's. He did not train others to follow in his
24 footsteps. Parse profited the least of the others in the
25 scheme, reaping only 2 percent of the total profits they made.

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1 Unlike Guerin, this Court is not left to wonder where the money
2 is. Because of that, this Court will not hold Parse
3 responsible for the full amount of restitution and instead will
4 set an apportioned restitution amount for him.

5 I'm going to fix a restitution amount that is 50
6 percent of the restitution amounts that were fixed for Guerin.
7 As the government noted in its submission, its calculation with
8 respect to Ms. Guerin was itself erroneous, but that's history.

9 So I am going to make Parse responsible jointly and
10 severally with Guerin and any co-conspirator sentenced in the
11 future to 50 percent of \$190,355,836.00. In addition, Parse is
12 also jointly and severally liable with any co-conspirator
13 sentenced in the future, but not Guerin, to the additional
14 corrected prejudgment interest that has accrued for those
15 losses in the amount of \$294,027.00.

16 In addition, Parse is also jointly and severally
17 liable with any co-conspirator sentenced in the future, but not
18 Guerin, to the additional prejudgment interest that has accrued
19 for those losses in the amount of \$206,839.00.

20 Finally, Parse is jointly and severally liable with
21 any co-conspirator sentenced in the future, but not Guerin, for
22 the additional base loss amount associated with additional
23 losses from Arthur Frigo in the amount of \$20,151,484.00.

24 With respect to forfeiture, this Court is imposing an
25 order of forfeiture on Mr. Parse in the amount of \$1 million.

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1 Now, turning to the custodial part of the sentence,
2 Oliver Wendell Holmes famously wrote taxes are the price we pay
3 for a civilized society. This case reveals the bizarre lengths
4 that some super-wealthy individuals will go to in order to
5 avoid their obligation as citizens. The tax shelter fraud
6 scheme perpetrated by Parse and others was breathtaking in its
7 scope and in the damage to our nation, nearly a billion in
8 fraudulent tax benefit claims and more than 1.5 billion in lost
9 tax revenue to the United States. It corrupted numerous
10 professionals including attorneys, accountants and financial
11 advisors. It involved some of our largest financial,
12 accounting and legal firms including Deutsche Bank, BDO Seidman
13 and Jenkens & Gilchrist.

14 Because of the complexity of the scheme, its success
15 relied on the unethical and criminal behavior of highly
16 educated, highly compensated professionals like Mr. Parse.
17 Lawyers and accountants became willing tools for the
18 ultra-wealthy to avoid paying their fair share of taxes, and
19 these professionals flagrantly violated their professional
20 responsibilities in order to line their pockets.

21 As I've observed before, this case is all about greed.
22 Parse played an essential role in the scheme, helping to
23 execute the tax shelter transactions and referring clients.
24 Parse wasn't the mastermind, but without him the tax shelters
25 would be little more than talking points. Daugerdas and Guerin

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needed a willing banker who would execute the trades according to their carefully selected financial devices. They needed an unethical banker who would violate the most fundamental principles of his chosen profession -- accounting -- to further their scheme, and they needed a reputable banker who had no qualms as he listened to an attorney counsel a client to lie.

They found all of those flaws in David Parse. Aside from his criminal endeavor, Parse appears to have lived the American dream. He grew up in a blue collar family, worked hard and by all accounts was successful. In mid-life Parse was a respected banker and investment adviser at one of the largest banks in the world. He had a stable marriage and three sons. He lived a Norman Rockwell existence in an upscale community.

Parse is described in the submissions I've read as always being there for his children and actively involved in their activities. Parse's friends and family characterize him as a role model and Parse has volunteered thousands of hours of his personal time to coaching youngsters.

His commitment to his community is not a ploy for sentencing. Rather it says something profound about the kind of man he is. This Court understands from the presentence report that Mr. Parse has shielded his sons from the specifics of this case. That is completely understandable. They're young and they should enjoy the innocence of childhood.

Well, Mr. Parse, this Court did not expect you to

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1 accept responsibility in your remarks here today, and you
2 exercised your constitutional right to a trial, and this Court
3 will not penalize you for invoking that right, but this Court
4 hopes that in the future when you discuss this case, your
5 conviction and your sentence with your children, that you'll
6 explain it honestly and accept the jury's judgment. You can
7 teach your children a valuable lesson in taking responsibility
8 and seeking redemption. This Court hopes that when that moment
9 arrives, that you'll fulfill your parental obligation to be a
10 role model and live up to the narrative that your friends and
11 family have presented in their letters to this Court.

12 Your selflessness towards friends and family is
13 obvious. Unfortunately, it was your selfishness that brings
14 you here today. You didn't need the money you gained from this
15 corrupt scheme. You already had more than enough to live a
16 very comfortable life, but you got caught up with the multitude
17 and joined them in the scheme, and you even tried to shield
18 your ill-gotten gains by participating in one of the fraudulent
19 tax shelters yourself. You sat mute when your co-defendant
20 told your banking client to lie if he was ever questioned by
21 the government.

22 What on earth were you thinking?

23 Certainly you knew that if your criminal acts were
24 discovered, the consequences would be severe and you knew you'd
25 run the risk of forfeiting your freedom, but undoubtedly you

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1 thought you'd never get caught. The law of money and your
2 belief you were all too clever to get caught overwhelmed your
3 sense of what is right and wrong.

4 There is a compelling need for general deterrence.
5 Indeed, many of the professionals involved in this tax shelter
6 fraud scheme were not charged, nor were the super-wealthy tax
7 cheats, but that reality merely underscores the importance of
8 general deterrence for tax shelter fraud schemes. You could
9 have assisted the government in its investigation, but you
10 chose not to, and you were willing to let your clients lie to
11 the government.

12 In the end, that allowed the scheme to continue and
13 facilitated the loss of more than a billion dollars in revenue
14 and the expenditure of what are undoubtedly tens of millions of
15 dollars in investigation and prosecution of this case and all
16 of the related cases.

17 I have tried in my remarks to you to draw together all
18 of the factors under Section 3553; the severity of these
19 offenses, the damage they do, the need for deterrence, both
20 specific and general, your role in this overall scheme and your
21 own family circumstances, and it is against that backdrop that
22 this Court is prepared to impose a sentence on you.

23 Mr. Parse, I ask you to stand.

24 Mr. Parse, I for one do not feel a sentence in the
25 guideline range is appropriate nor do I share the government's

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view that a sentence like the sentence that I gave Ms. Guerin is appropriate, but your acts were serious and you need to be sentenced to a significant term to reflect those compelling facts.

It's my judgment that you be sentenced to a total term of 42 months of imprisonment, 36 months on Count 20 and 42 months on Count 25, to be served concurrently, to be followed by one year of supervised release on Count 20 and three years of supervised release on Count 25, also to be served concurrently.

I am also going to impose on you a mandatory \$200.00 special assessment.

With respect to the restitution that I have imposed, I am going to require you as a condition of supervised release to pay 20 percent of your gross monthly income during the period of your supervised release toward the restitution that I have imposed on you.

I will impose all of the standard conditions of supervised release as well as that special condition that you pay restitution. There is a further special condition that you provide your probation officer with access to any requested financial records during the period of your supervised release and that you not incur any new obligations unless you are in compliance with your installment payment schedule during the term of your supervised release.

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1 This, Mr. Parse, represents the sentence of this
2 Court. I advise you that you have the right to appeal this
3 sentence. I advise you further that if you cannot afford
4 counsel, counsel will be provided to you free of charge.

5 Mr. Shechtman has done nothing less than an eloquent
6 job in representing you in connection with this sentencing and
7 I am confident that he'll advise you further with respect to
8 your appellate rights. You may be seated, sir.

9 Are there any further applications by the parties?

10 MR. SHECHTMAN: There is, Judge. There is the
11 question of bail pending appeal. The criteria, if understand
12 them right, are flight and the burden is on us, but I don't
13 think there is a real flight issue here and the existence of a
14 substantial issue. I don't need to tell the court what that
15 means.

16 I think there are substantial issues here. I think
17 the post-trial motions that were filed are far from frivolous.
18 I think they are ones that reasonable people can disagree
19 about. I have spoken to the government about this. I don't
20 want to put words in their mouth, but I think they consent
21 about pending appeal under the circumstances, and I ask the
22 court to bring it.

23 MS. DAVIS: Given the relatively unique nature of the
24 post-trial motions for new trial regarding Juror No. 1, we have
25 consented to his application for bail pending appeal, but only

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1 on that basis.

2 THE COURT: All right. I want to add one other facet
3 to the judgment of conviction here, and that is that the
4 direction that Mr. Parse, prior to his surrender date, whatever
5 date that may be, tender to the United States \$500,000 as an
6 initial installment toward restitution. I am going to include
7 that as a feature of the judgment, so I will not fix any date
8 for Mr. Parse's surrender.

9 For the record, what are the current bail conditions,
10 Ms. Davis?

11 (Off-the-record discussion)

12 MR. SHECHTMAN: Judge, my understanding is it is
13 \$500,000. It is secured by Mr. Parse's home which there is a
14 lien on. We ask that be continued.

15 MS. DAVIS: That is my recollection as well and we
16 concur with that as adequate at this point.

17 THE COURT: The same travel restrictions will enure;
18 that is, his travel is limited to the Continental United States
19 as it was fixed previously and his passport has been
20 surrendered and there will be no applications for travel
21 documents.

22 MR. SHECHTMAN: That is understood.

23 THE COURT: Mr. Parse, sir, do you understand that all
24 of those conditions are going to continue to apply pending
25 appeal and that the violation of any of those conditions could

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1 result in severe penalties against you?

2 THE DEFENDANT: Yes, your Honor, I do understand.

3 THE COURT: Very well, sir.

4 Is there anything further?

5 MR. SHECHTMAN: No. Did your Honor put a date on the
6 payment of that first installment?

7 THE COURT: Well, the date I put was before he
8 surrenders.

9 MR. SHECHTMAN: That is understood completely.

10 THE COURT: Before he surrenders.

11 MR. SHECHTMAN: That is eminently fair and reasonable.
12 We thank the Court.

13 THE COURT: Is there anything further from the
14 government?

15 MS. DAVIS: No, your Honor.

16 THE COURT: This matter is concluded.

17 (Court adjourned)

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